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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,992	01/25/2001	William D. Sprick	CG-855	5424

7590 01/15/2002

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MIDDLETON REUTLINGER  
2500 Brown & Williamson Tower  
Louisville, KY 40202

EXAMINER

WILLATT, STEPHANIE L

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 01/15/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/769,992

Applicant(s)

SPRICK ET AL.

Examiner

Stephanie L. Willatt

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7 and 9-12 is/are rejected.
- 7) ☒ Claim(s) 5, 8 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "63" has been used to designate both the "opening" and the "child-resistant lock." A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

A.) 63 is used to refer to both the opening and a child-resistant lock throughout the entire specification.

B.) On page 7, lines 7, 8, and 10, the "bead 29" should be "bead 65."

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter in view of Schreiber.

Porter discloses a dispenser closure comprising a container finish having at least one thread 16 formed thereon. A cap body 40 is threadably attached to the container finish, as shown in Figures 2 and 3. The cap body 40 has a top wall 44 with an opening 48 therein. A fitment (post) 26 is disposed in an opening of the container finish, as shown in Figure 3. The fitment (post) 26 is sealably engaged to the cap body 40. The top wall 44 includes an inner wall 50 and an outer wall 42 depending therefrom. The outer wall 42 and the inner wall 50 are concentrically aligned, as shown in Figures 2 and 3. Porter uses a lug 56 and two lug stops 28, 30 to prevent the cap body 40 from being unscrewed completely off of the container finish.

Schreiber teaches the use of a lug stop 60 on the container finish and a lug 30 on the wall 16 containing threads that mate with the threads on the container finish, as shown in Figures 8, 9, and 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a dispenser closure with the structure taught by Porter modified with the lug and lug stop system as taught by Schreiber in order to prevent the cap body from unscrewing completely off of the container finish.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to include two lugs on the wall and two stops on the finish, since it has been held that mere duplication of the essential working parts of a device

involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (CA 7 1977).

5. Claims 3, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter in view Schreiber as applied to claims 1 and 2 above, and further in view of Robinson.

Porter and Schreiber disclose the features discussed above, but do not disclose a child-resistant lock or child-resistant stop. Robinson teaches two child-resistant locks 46,48 and two child-resistant stops 70,72. It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the combination of Porter's and Schreiber's inventions with two child-resistant locks and two child-resistant stops, as taught by Robinson, in order to make the cap body child-resistant.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porter in view Schreiber as applied to claims 1 and 2 above, and further in view of Schneider.

Porter and Schreiber disclose the features discussed above, but do not disclose a lug including a spine projecting from an inner wall. Schneider discloses a lug 25 that includes a spine 250 projecting from an inner wall 16. It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the lug of the Porter-Schreiber combination to include a spine projecting from an inner wall, as taught by Schneider, in order to reinforce the lug's strength.

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter in view of Schreiber and Robinson.

Porter and Schreiber disclose the features discussed above, but do not disclose a child-resistant lock or child-resistant stop. Robinson teaches two child-resistant locks 46,48 and two child-resistant stops 70,72. It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the combination of Porter's and Schreiber's inventions with two child-resistant locks and two child-resistant stops, as taught by Robinson, in order to make the cap body child-resistant.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to include two lugs on the wall and two stops on the finish, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (CA 7 1977).

***Allowable Subject Matter***

8. Claims 5, 8, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 14-20 are allowed.


**Conclusion**

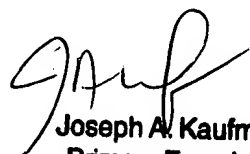
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Quint, Hazard, Haller, Stull, Agurrezabal, Leuenberger, Moretti, and Tauber disclose dispenser closures.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is 703-305-6316. The examiner can normally be reached Monday-Thursday (8:30-6:00) and every other Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

  
slw  
January 9, 2002

  
Joseph A. Kaufman  
Primary Examiner  
1/10/02

Attachment for PTO-948 (Rev. 03/01, or earlier)  
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a)

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.